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19 CITY OF SUNNYVALE

20 UNITED STATES DISTRICT COURT

21 NORTHERN DISTRICT OF CALIFORNIA

22 DAVID MEINHARDT, KIRK KIM,
23 CAMRON BAILEY, TIMOTHY AHEARN
24 and JILL AHEARN, on behalf of themselves
25 and all similarly situated individuals.

26 Plaintiffs,

27 v.

28 CITY OF SUNNYVALE,
29 Defendant.

30 Case No. 5:16-CV-05501 EJD

31 **JOINT STIPULATION AND [PROPOSED]
32 ORDER APPROVING SETTLEMENT
33 AND DISMISSAL OF MATTER WITH
34 PREJUDICE**

35 Hon. Edward J. Davila

36 Complaint filed: September 27, 2016
37 Trial date: Not Set

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39 This Stipulation and Settlement Agreement is made between Defendant CITY OF
40 SUNNYVALE (hereafter “Defendant” or “City”) and named Plaintiffs KIRK KIM, CAMRON
41 BAILEY, and TIMOTHY AHEARN and the following opt in Plaintiffs: Andrea Atkinson, Rafael
42 Chavez, Spencer Chen, Catalina Cruz, Dean Discher, Christopher Fiene, Rene Fernandez, Tracy

1 Hern, Paul Kuczma, David Longanecker, Robert Malvini, Robert Mathers, Scott McCulloch,
2 Shawn Nunes, Gregory Othon, Marianne Siu, Grant Smith, and Regan Williams (collectively the
3 "Parties").

4 On September 9, 2016, Plaintiffs (on behalf of themselves and all current and former non-
5 exempt City employees who worked overtime at any time since September 9, 2013) filed their
6 complaint against the City alleging Plaintiffs are entitled to additional overtime pay under the Fair
7 Labor Standards Act ("FLSA"). The complaint alleges the City violated the FLSA by failing to pay
8 Plaintiffs the full amount due for all overtime hours worked. The complaint alleges the City failed
9 to properly calculate the overtime rate of pay by excluding contributions for health care benefits or
10 cash-in-lieu of health care benefits payments from the regular rate of pay, and excluding holiday-
11 in-lieu payments from the regular rate of pay. During the course of litigation Plaintiffs also raised
12 a claim that the City violated the FLSA by failing to include bilingual premium pay in the regular
13 rate of pay for overtime under the FLSA. Plaintiffs allege they are entitled to recover unpaid
14 overtime from September 9, 2013 to the present, plus liquidated damages in an equal amount, a
15 declaratory judgment, an accounting, and attorneys' fees and costs. The City timely answered the
16 complaint, generally denying the allegations and raising multiple affirmative defenses.

17 In an effort to resolve the issues raised in the lawsuit, the Parties engaged in extensive
18 negotiations regarding these matters, with all Parties represented by counsel experienced in wage
19 and employment matters.

20 The Parties participated in two days of a settlement conference before Magistrate Judge
21 Susan van Keulen and, at the close of the second day of the settlement conference, under the
22 guidance of Judge van Keulen, reached agreement on the terms of a settlement, which is
23 memorialized in the attached Settlement Agreement (attached hereto as Exhibit 1). By entering into
24 this Settlement Agreement, the City does not admit, and continues to expressly deny, any liability
25 for the claims alleged. The City Council subsequently approved and authorized the settlement terms
26 described in the Settlement Agreement.

27 The Parties wish to avoid the potential uncertainty, expense and delay of litigation and
28 therefore, based on their extensive negotiations, agree to a settlement of these disputes. The Parties

1 understand that the potential recovery at trial remains unknown, but the Parties believe that the terms
2 of the Settlement Agreement are consistent with and within the range of a reasonable result that
3 Plaintiffs might expect to obtain after a trial, and that the settlement represents a fair, reasonable,
4 and adequate resolution of the Parties' dispute.

5 The Parties desire to resolve all of the outstanding issues in the above-described lawsuit, and
6 to that end, entered into the Settlement Agreement. The Parties hereby agree, warrant, represent,
7 and stipulate to the terms as set forth in the Settlement Agreement and seek an Order approving the
8 Settlement Agreement and dismissing this matter with prejudice.

9 Dated: October 5, 2017 RENNE SLOAN HOLTZMAN SAKAI LLP

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11 By: _____ /S/
12 KEVIN P. MC LAUGHLIN
13 Attorneys for Defendant
City of Sunnyvale

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15 Dated: October 5, 2017 MESSING ADAM & JASMINE LLP

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17 By: _____ /S/
18 D. PAUL BIRD II
19 Attorneys for Plaintiffs

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[PROPOSED] ORDER

Pursuant to the parties' Stipulation, careful review of the parties' Settlement Agreement and relevant exhibits thereto, and good cause appearing, the Court orders as follows:

4 1. The Court approves the Settlement Agreement (attached hereto as Exhibit 1) as fair,
5 reasonable, and adequate in all respects as to the Plaintiffs and Putative Plaintiffs. *See generally*
6 *Lynn's Food Stores, Inc. v. United States*, 679 F.2d 1350 (11th Cir. 1982).

7 2. The Court dismisses this matter with prejudice. This order constitutes the Court's
8 judgment and judgment is entered as of the date of this order.

IT IS SO ORDERED.

Dated: Oct. 16, 2017


EDWARD J. DAVILA
United States District Judge